

## REMARKS/ARGUMENTS

### I. INTRODUCTION

Applicant would like to thank Examiner Luong for the telephonic interview (“Interview”) conducted on May 17, 2010. In the Interview, Examiner Luong and the Undersigned reached agreement regarding the amendment to the Specification as set forth herein to traverse the Examiner’s objection to the Specification. However, agreement was not reached regarding the withdrawal of the Examiner’s provisional obviousness-type double patenting rejection in view of Applicant’s later-filed U.S. patent application Ser. No. 10/727,306 (U.S. Pub. No. 2004/0129108) that is a continuation-in-part application of the present application. Further, the Examiner and the Undersigned did not discuss the merits of the Examiner’s anticipation rejection under 35 U.S.C. §102 based on JP-H04-78769 to Shigeru (“Shigeru”). Applicant will address in detail herein the objection to the Specification and each of the two bases of rejection advanced by the Examiner.

Claims 20-29 are pending in the present application. Of these claims, claims 20 and 27 are independent claims, and the remainder of the claims, namely claims 21-26, 28, and 29, depend directly or indirectly from independent claims 20 and 27. This Amendment is being filed to respond to the Office Action dated May 13, 2010 that finally rejected the claims of the present application. In the Office Action, the Examiner set forth the following objection and rejections related to the Specification and claims:

A. The Specification was objected to for failing to provide a proper antecedent basis for the claimed subject matter, such as, “an upper one-half ( $\frac{1}{2}$ )” in claims 20 and 27.;

B. Claims 20-29 were rejected under 35 U.S.C. § 102(b) for anticipation based on JP-H04-78769 to Shigeru (“Shigeru”);

C. Claims 20-26 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting based on claims 14-17, 24, and 27 of Applicant’s later-filed co-pending application U.S. patent application Ser. No. 10/727,306 (U.S. Pub. No. 2004/0129108), which is a continuation-in-part application of the present application; and

D. Claims 27 and 28 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting based on claims 18 and 19/18 of Applicant's later-filed co-pending application U.S. patent application Ser. No. 10/727,306 (U.S. Pub. No. 2004/0129108), which is a continuation-in-part application of the present application.

Applicant will demonstrate that the Specification and claims as presented herein overcome the objection and each of the bases of rejection advanced by the Examiner, thereby, placing the present application in condition for allowance.

## **II. LEGAL STANDARD**

As stated in Section I, the Examiner has rejected claim claims 20-29 for anticipation under 35 U.S.C. § 102(b) for anticipation based on Shigeru. The standard for sustaining a rejection for anticipation is a single prior art reference must disclose each and every limitation of the claim. *See, e.g., Schering Corp. v. Geneva Pharma., Inc.*, 339 F.3d 1373, 1377 (Fed. Cir. 2003) (“[a] patent [claim] is invalid for anticipation if a single prior art reference discloses each and every limitation of the claimed invention; *Brown v. 3M*, 265 F.3d 1349, 1351 (Fed. Cir. 2001) (“[t]o anticipate, every limitation of the claimed invention must be found in a single prior art reference, arranged as in a claim”); *Kloster Speedsteel AB v. Crucible, Inc.*, 794 F.2d 1565, 1571 (Fed. Cir. 1986) (“absent from the reference of any claimed element negates anticipation”). Shigeru does not meet this standard.

## **III. THE OBJECTION TO THE SPECIFICATION IS TRAVERSED**

In the Office Action at page 2, the Examiner objected to the Specification for failing to provide a proper antecedent basis for the term “an upper one-half (½).” In this Amendment, Applicant has amended paragraphs [0019] and [0024] to provide written support for what is shown in Figures 1 and 2, as filed. In the Interview with Examiner Luong on May 17, 2010, the Examiner acknowledged that Figures 1 and 2 showed the disposition of the present invention at the 10 o'clock and 2 o'clock positions, and that these positions were disposed on the upper one-half (½) of the steering control 105 and 211, respectively. Accordingly, the amendments to paragraphs [0019] and [0024] were supported by Figures 1 and 2 in the application as filed and such amendments do not add new matter.

The amendments to paragraphs [0019] and [0024] traverse the Examiner's objection to Specification. Noting this, it is requested that the Examiner withdraw this objection.

#### **IV. CLAIMS 20-29 ARE NOT ANTICIPATED BY SHIGERU**

Examiner rejected claims 20-29 under 35 U.S.C. § 102(b) for anticipation based on Shigeru. The Examiner provided a translation of Shigeru with the Office Action. The Examiner has relied on the four pages of the translation to support the anticipation rejection raised against claims 20-29. Applicant submits that Shigeru (1) teaches away from the present invention and (2) does not anticipate the present invention as the Examiner contends.

A review of the Shigeru translation teaches a support 1 that extends outward from the outer peripheral edge of a steering wheel parallel to a plane across the face of steering wheel. Support 1 is shaped and positioned for safety reasons to have no portion extend outward from a plane across the face of the steering wheel toward the driver; however, since support 1 is wider than the steering wheel, a portion of its width is behind the plane across the back of the steering.

The support 1 is constructed of molded plastic that is covered with a layer of cushion material. The surface of the cushion material is then covered with cloth or leather. The driver's hands rest on the top of each support 1 at the outside perimeter of the steering wheel.

Each support 1 is fixedly attached to metal grooves cut at the outside periphery of the steering wheel. A latching mechanism extends through each support 1 so that when the support is positioned in the desired location along a metal groove, the latching mechanism is tightened to lock or fix the support in place. Once the support is fixed in place, it does not move until the latching mechanism is actuated to unlock it. In a second embodiment, instead of a groove being used, each support is fixed in place with a lever or nut using a band or U-shaped metal fitting, respectively. In each case, the support is fixed in place and in order to move it, the support must be unlatched, moved, and then relatched such that it is fixed to the steering wheel at the new location.

The underlying molded plastic structure of support 1 is made from a light-weight plastic. This light-weight plastic is a rigid material. In order to protect a driver from contacting this rigid structure in an accident, the support is specifically placed such that the driver would come in contact with the steering wheel before the support. To the extent that the driver comes in contact with the support in normal use, the driver would contact the cloth or leather covering the cushion

material, which reduces slippage. The following from pages 2-4 of the Shigeru translation supports Applicant's understanding of Shigeru:

II. Scope of the Patent Claims

1. An invention of support 1 wherein support 1 can be moved along a fixing groove of steering wheel 2 and fixed to a free place by the action of lever 5 and metal fitting 6 to make the hands stable by fixing support 1 to the outer periphery of steering wheel 2 and reduce fatigue of driver's hands.

2. A support 1 fixed to steering wheel 2 with band 11 or U-shaped metal fitting 12 wherein a fixing groove 3 of the steering wheel is not needed to fasten support 1 from the outside of steering wheel 2.

III. Detailed Description of the Invention

Groove 3 for metal fitting 6 is cut in a conventional steering wheel, *metal fitting 6 of support 1 is fit into it in order to slide support 1 along the outer periphery of the steering wheel, and lever 5 is set into groove 7 of the support at the most preferable position of the driver's hands. When a driver wants to change the position, he/she can pull lever 5 horizontally to release the fixing, and then can move the lever to another place and fix it....*

Claim 2 is a method that is different with respect to the fixing method of support 1 wherein support 1 is fastened to the steering wheel 2 from the outside with a lever or a nut using a banned 11 or U-shaped metal fitting 12.

In the internal structure of support 1, molded part 8 is a light-weight plastic and relieves fatigue of a portion of the hands in contact with the cushion material thereon by covering the hands. A surface material 10 can be made with a cloth or with leather in order to reduce slippage of the hands as much as possible as shown in Fig. 3. *Support 1 does not come in contact with the body earlier than steering wheel 2 in a collision due to an accident happening in front of steering wheel 2; almost all of the parts are formed into curved surfaces and are covered all over with flexible cushion 9 when they are fixed to steering wheel 2. Therefore, the safety of the human body is thought to be high.*  
[Emphasis Added.]

Examiner provided an Appendix with the Office Action in which he marked-up Figures 1, 2 and 4 of Shigeru to attempt to show the features of the present invention. Applicant contends that these figures along with this remainder of the figures clearly show Shigeru (1) teaches away from the present invention, and (2) does not teach or suggest the present invention for the same reasons the Board of Patent Appeals and Interferences ("Board") found in its decision dated August 31, 2009 that the present invention was not anticipated by U.S. Patent No.

2,118,540 to Van Arsdel (“Van Arsdel”) or U.S. Patent No. 1,575,828 to Laubach (“Laubach”).<sup>1</sup>

Initially, it is noted in Figures 1 and 4 of Shigeru that support 1 extend outward from the outer edge of the periphery of the steering wheel parallel to a plane across the face of the steering wheel and because support 1 is thicker than the steering wheel, a portion of support 1 protrudes behind a plane across the back of the steering wheel. No portion of support 1 extends in front of a plane across the face the steering wheel for safety reasons. This is supported at pages 3-4 of the Shigeru translation, where it states:

Support 1 does not come into contact with the body earlier than steering wheel 2 in a collision due to an accident happening in front of the steering wheel 2; almost all of the parts are formed into curved surfaces and are covered all over with flexible cushion 9 when they are fixed to steering wheel 2. Therefore, the safety of the human body is thought to be high.

As demonstrated in the quotations above from Shigeru, support 1 extends outward in the plane of the steering wheel with a portion behind that plane. Further, as a safety factor, support 1 never extends in front of the plane across the face of the steering wheel toward the driver. Therefore, noting these features of Shigeru, this reference teaches away from the present invention as claimed in independent claims 20 and 27 in which the fatigue relieving/preventing apparatus extends outward from the steering wheel toward the driver.

Claims 21-26 and 29 depend from claim 20, and claim 28 depends from claim 27. Since claims 21-26 and 29 depend from claim 20, each of these dependent claims includes all the features of claim 20. Further, since claim 28 depends from claim 27, it will include all the features of claim 27. Given this, Shigeru teaches away from claims 21-26 and 29, and 28 for the same reasons that it teaches away from the independent claims from which each of these dependent claims depend.

A review of Shigeru also supports that this reference does not teach or suggest at least the following feature of independent claims 20 and 27 of the present application:

the second section for providing resting support for at least a portion of a vehicular operator's body when pressure from the portion of the vehicular operator's body on the second section is less than the pressure for deforming the second section out of interference with the vehicular operator's ability to operate

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<sup>1</sup> The decision of the Board of Patent Appeals and Interferences dated August 31, 2009 is attached as Attachment 1.

the steering wheel, and deforming out of interference with the vehicular operator's ability to operate the steering wheel when pressure from the portion of the vehicular operator's body on the second section is equal to or greater than the pressure for deforming the second section out of interference with the vehicular operator's ability to operate the steering wheel. [Emphasis added.]

As noted previously, Applicant submits that support 1 of Shigeru, although being constructed of a light-weight plastic, is a rigid structure that is fixed to the steering wheel and is not “deformable out interference with vehicular operator's ability to operate the steering wheel” as set forth in claims 20 and 27. Applicant further submits, given the rigid structure of support 1 and its fixing to the steering wheel by either (1) lever 5 with metal fitting 6 disposed in groove 7, or (2) a lever and band 11, or (3) a nut and U-shaped metal fitting 12, it is cumulative with Van Arsdel and Laubach, and, as such, independent claims 20 and 27 are patentable over Shigeru.

In overturning the Examiner's anticipation rejection under 35 USC §102 based on Van Arsdel and Laubach, the Board stated the following regarding these two references. First, with regard to Van Arsdel, the Board stated:

*Van Arsdel*

5. The Examiner finds from Van Arsdel's disclosure (page 1, right column at line 49 to page 2, left column at line 2 and at lines 28-32) that the grip-rest 2 is adjustable. Lines 28-32 explain that loosening or reversing the screw 14 sufficiently permits the grip-rest 2 to shift position. From this disclosure, the Examiner finds the grip-rest 2 could be placed at a position where it does not interfere with the operation of the steering wheel (*see* Ans. 9-10). As such, the Examiner finds that Van Arsdel's grip-rest 2 has the capability of deforming out of interference with the vehicular operator's body when the pressure from the vehicular operator's body is equal to or greater than the pressure needed to deform the second section out of interference.
6. The Appellant argues that the portion of Van Arsdel's disclosure that the Examiner is using (Van Arsdel, page 2, left column at lines 28-32) to find that an Arsdel's grip-rest 2 is deformable does not in fact support the Examiner's finding. Instead, this portion of Van Arsdel supports a finding that to move the grip-rest 2, the screw 14 must be loosened, the rest repositioned, and screw 14 tightened. The Appellant argues that this operation is not deforming according to claim 20 during normal use of the second section (grip-rest) (parenthetical nomenclature to Van Arsdel). The Appellant argues, instead, once positioned, the grip-rest is fixed. App. Br. 8.  
(Board Decision, pp. 7-8)

*Anticipation with Van Arsdel*

We conclude that Appellant has met his burden in showing that Van Arsdel's second section is not capable of deforming out of interference with the vehicular operator's ability to operate the steering wheel when pressure from the portion of the vehicular operator's body on the second section is equal to or greater than the pressure for deforming the second section out of interference with the vehicular operator's ability to operate the steering wheel. *As the Appellant has stated, Van Arsdel's second section (grip rest) needs to be repositioned in order to be moved to a position out of interference with a driver's ability to steer the steering wheel (Fact 6) and parts of the second section (the flanges 4 and 5) give the driver something to push against to steer the car around corners and curves (Fact 7). A structure, as the Examiner has found, see Fact 5, that requires disassembly and reassembly and permits the driver to push against cannot reasonably be considered a structure that is capable of deforming out of interference as has been claimed.* Accordingly, Appellant has met his burden in showing that Van Arsdel's structure is not capable of the performing the deformation out of interference function claimed. Thus, Appellant has demonstrated error in the Examiner's rejection of claims 20-26 and 28/20. [Emphasis Added.]

(Board Decision, p. 13)

Now, with respect to Laubach, the Board stated:

11. The Examiner finds that portion 10 is capable of deforming out of interference because the driver can unscrew Laubach's knobs and move them to another position as desired by the driver. Ans. 12.

12. The Appellant argues that:

The description of the knobs and a review of the Figures... [make] plain that the knobs are not deformable and they are not disposed at an angle with respect to the plane across the face of the steering wheel. The knobs are rigidly connected to the steering wheel by screws 5. Any movement of them requires removing the screws, drilling the wheel at a new location, and reattaching the knobs at the new location. At this new location, the knobs will be in a plane parallel to the plane across the face of the steering wheel.

The knobs do not deform out of interference with the operation of the steering wheel as does the second section of claim 20. In fact, once the Laubach knobs are secured by screws 5 as shown and described, they are fixed and not movable during normal operations. If they are not unscrewed, the only movement would be to apply a destructive force to the knobs, thereby breaking them. Moreover, if the driver were to attempt to grab the steering wheel at the locations of the knobs in an emergency, the knobs would not deform and would prevent the driver from grabbing the wheel at these knob locations. Therefore, Laubach does not support a

prima facie basis of anticipation because it is missing at least one element of claim 20 relating to deformation of the knobs out of interference with the operation of the steering wheel in the normal operation of the knobs. [Emphasis in original.]

See e.g., page 1, lines 43-71. App. Br. 11-12.  
(Board Decision, pp. 10-11)

*Anticipation with Laubach*

We conclude that Appellant has met his burden in showing *that Laubach's second section does not inherently possess the characteristic of being capable of deforming out of interference with the vehicular operator's ability to operate the steering wheel* when pressure from the portion of the vehicular operator's body on the second section is equal to or greater than the pressure for deforming the second section out of interference with the vehicular operator's ability to operate the steering wheel. *As Appellant argues, in the manner in which the Examiner has utilized Laubach in order to reach the deforming out of interference function, the knobs need to be disassembled and reassembled in order to be repositioned. See Facts 11 and 12. We agree with Appellant that the disassembly and reassembly of the knobs demonstrates that the knobs are fixed and the only manner of movement to the knobs, short of disassembly, would be destructive in nature to Laubach's device.* As such, to find that the functional limitation of the second section deforming out of interference, as set forth in claim 20, is inherently satisfied on a manner of movement that either requires disassembly and reassembly or is destructive is unreasonable. Accordingly, the Appellant has met his burden in showing that Laubach does not possess the capability of deforming as set forth in claim 20. Thus, Appellant has demonstrated error in the Examiner's rejection of claims 20, 27, 28/20, and 28/27. [Emphasis Added.]  
(Board Decision, pp. 15-16)

In the citations to the Board Decision above, it is plain that a structure in which a rigid support is fixed to the steering wheel and can only be repositioned by detaching the rigid structure and reattaching it at a different location does not anticipate claims 20 and 27 of the present invention. Applicant submits that Shigeru is like Van Arsdel and Laubach in this regard and, therefore, does not anticipate claims 20 and 27.

For convenience, Applicant again provides the following portion of the Shigeru translation (Shigeru, pp. 2-4):

II. Scope of the Patent Claims

1. An invention of support 1 wherein *support 1 can be moved along a fixing groove of steering wheel 2 and fixed to a free place by the action of lever 5 and metal fitting 6 to make the hands stable by fixing support 1 to the outer periphery of steering wheel 2* and reduce fatigue of driver's hands.



2. A support 1 fixed to steering wheel 2 with band 11 or U-shaped metal fitting 12 wherein a fixing groove 3 of the steering wheel is not needed to fasten support 1 from the outside of steering wheel 2.

### III. Detailed Description of the Invention

Groove 3 for metal fitting 6 is cut in a conventional steering wheel, *metal fitting 6 of support 1 is fit into it in order to slide support 1 along the outer periphery of the steering wheel, and lever 5 is set into groove 7 of the support at the most preferable position of the driver's hands. When a driver wants to change the position, he/she can pull lever 5 horizontally to release the fixing, and then can move the lever to another place and fix it. When the driver thinks that the change is unnecessary, he/she draws the lever 5 to the upper part of steering wheel 2 having a metal fitting inlet/outlet 4 to make it possible to freely remove the metal fitting.*

*Claim 2 is a method that is different with respect to the fixing method of support 1 wherein support 1 is fastened to the steering wheel 2 from the outside with a lever or a nut using a banned 11 or U-shaped metal fitting 12.*

In the internal structure of support 1, molded part 8 is a light-weight plastic and relieves fatigue of a portion of the hands in contact with the cushion material thereon by covering the hands. A surface material 10 can be made with a cloth or with leather in order to reduce slippage of the hands as much as possible as shown in Fig. 3. *Support 1 does not come in contact with the body earlier than steering wheel 2 in a collision due to an accident happening in front of steering wheel 2; almost all of the parts are formed into curved surfaces and are covered all over with flexible cushion 9 when they are fixed to steering wheel 2. Therefore, the safety of the human body is thought to be high.*  
[Emphasis Added.]

Applicant's contention molded part 8 of light-weight plastic as shown in Figure 3 of Shigeru is a rigid structure is supported by the translation. Figure 3 shows molded part 8 covered with cushion material 9 and cloth or leather covering 10. Molded part 8 also includes groove 7 into which lever 5 is set. Lever 5 and metal fitting 6 are connected by a connecting rod (Figure 6).

When the driver fixes molded part 8 to the steering wheel, the connecting rod between lever 5 and metal fitting 6 is disposed through the hole in molded part 8 that extends from groove 7 to the inside surface of molded part 8. In order to fix molded part 8 to the steering wheel, there must be considerable fixing tension applied using lever 5 and metal fittings 6. If molded part 8 was not made of a rigid material, support 1 would (1) collapse under this fixing tension and (2) would not be fixed in place and not movable from that place until the fixing

tension was removed as specified in the translation. Further, the translation is explicit that in order to move support 1 from one place to another, it must be unfixed moved and refixed to the steering wheel by operation of lever 5, metal fitting 6, and groove 7. As such, support 1 is a rigid structure covered with cushion material and cloth or leather.

The rigid support structure and method of moving it as disclosed in Shigeru is exactly what the Board has held is not “deforming out of interference with the vehicular operator’s ability to operate the steering wheel when pressure from the portion of the vehicular operator’s body on the second section is equal to or greater than the pressure for deforming the second section out of interference with the vehicular operator’s ability to operate the steering wheel” according to claims 20 and 27 of the present invention in its holding that neither Van Arsdel nor Laubach anticipate these claims. Accordingly, it is improper for the Examiner to disregard the Board’s explicit prior holding on this issue.

Noting the foregoing, Applicant has provided at least two grounds that clearly show that Shigeru does not anticipate independent claims 20 and 27 of the present application. The first is Shigeru teaches away from the invention of claims 20 and 27, and the second is Shigeru does not anticipate claims 20 and 27 for the same reasons that the Board found Van Arsdel and Laubach do not anticipate these claims.

Claims 21-26 and 29 depend from claim 20, and claim 28 depends from claim 27. Since claims 21-26 and 29 depend from claim 20, each of these dependent claims include all the features of claim 20. Further, since claim 28 depends from claim 27, it will include all the features of claim 27. Given this, Shigeru fails to anticipate claims 21-26 and 28 for the same reasons that it fails to anticipate the independent claims from which each of these dependent claims depend.

Applicant’s positions above make plain that he has traversed the Examiner’s anticipation rejection raised against claims 20-29 based on Shigeru and Applicant requests that this rejection be withdrawn.

## **V. OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTION IS IMPROPER**

The Examiner provisionally rejected claims 20-26 under the judicially created doctrine of obviousness-type double patenting in view of claims 14-17, 24, and 27 of Applicant’s later-filed co-pending application U.S. patent application Ser. No. 10/727,306 (U.S.

Pub. No. 2004/0129108) ("the '306 application") that is a continuation-in-part application of the present application. Further, the Examiner provisionally rejected claims 20 and 28 under the judicially created doctrine of obviousness-type double patenting in view of claims 18 and 19/18 of the '306 application. Applicant submits that in light of the filing of the Terminal Disclaimer in the '306 application, the Examiner's provisional obviousness-type double patenting rejections in the present application are improper and should be withdrawn.

In the May 17<sup>th</sup> Interview, when the Undersigned queried the Examiner about the provisional rejections advanced in the present application, the fact that a terminal disclaimer had been filed and accepted in the '306 application was acknowledged by the Examiner. The Undersigned also queried what the ultimate result would be if a terminal disclaimer was filed in the present application directed to the '306 application,<sup>2</sup> and both the present application and the '306 application should issue as patents. The Examiner responded that each patent would indicate it was subject to a terminal disclaimer, i.e., (1) the patent issuing from the present application would indicate a terminal disclaimer naming the '306 application and (2) the patent issuing from the '306 application would indicate a terminal disclaimer naming the present application. The Undersigned indicated to the Examiner that he believed this would be improper; however, the Examiner just pointed to MPEP §804, subsection I.B.1. as supporting his position. Applicant submits that following MPEP §804, subsection I.B.1., the filing of the Terminal Disclaimer in the '306 application overcomes any need to raise an obviousness-type double patenting rejection in view of the '306 application.

Applicant believes that the second paragraph of MPEP §804, subsection I.B.1. should apply to the present application and the co-pending '306 application regarding the filing of a terminal disclaimer. The second paragraph of MPEP §804, subsection I.B.1. states:

If "provisional" ODP rejections in two applications are the only rejections remaining in those applications, *the examiner should withdraw the ODP rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer. A terminal disclaimer must be required in the later-filed application before the ODP rejection can be withdrawn and the application permitted to issue.* If both applications are filed on the same day, the examiner should determine which application claims the base invention and which application claims the improvement (added limitations). The ODP rejection in the base application can be withdrawn without a terminal disclaimer,

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<sup>2</sup> A copy of the Terminal Disclaimer filed in the '306 application is attached at Attachment 2.

while the ODP rejection in the improvement application cannot be withdrawn without a terminal disclaimer.

Under present facts, the present application was filed on November 24, 2003 and the '306 application, which is a continuation-in-part application of the present application, was filed on December 3, 2003. This makes the present application the earlier-filed application and the '306 application the later-filed application. In the '306 application, the Examiner raised an obviousness-type double patenting rejection in view of the claims of the present application. To overcome that rejection, Applicant filed a Terminal Disclaimer (Attachment 2), which the Examiner has acknowledged traversed that obviousness double patenting rejection in the '306 application.

MPEP §804, subsection I.B.1. addresses the situation in which there are obviousness-type double patenting rejections into applications. However, under the present facts, the obviousness-type double patenting rejection in the '306 has been overcome by the filing of a Terminal Disclaimer. This satisfies the requirement of the second paragraph of MPEP §804, subsection I.B.1. quoted above and makes it improper to raise an obviousness-type double patenting rejection in the present application, which is the early-filed application.

Noting the foregoing, Applicant has traversed the Examiner's obviousness-type double patenting rejection as it has been applied to the present application and requests that it be withdrawn.

## **VI. CONCLUSION**

Claims 20-29 are pending in the present application. In the May 13, 2010 Office Action, the Examiner objected to the Specification; rejected claims 20-29 under 35 U.S.C. § 102(b) for anticipation based on Shigeru; and rejected claims 20-28 under the judicially created doctrine of obviousness-type double patenting in view of Applicant's later-filed co-pending '306 application that is a continuation-in-part application of the present application. In the foregoing, Applicant has traversed the objection and rejections advanced by the Examiner. Accordingly, Applicant requests that the objection to the Specification, anticipation rejection, and obviousness-type double patenting rejections be withdrawn. Noting this, the present application is condition for allowance.

The present invention is new, not obvious, and useful. Reconsideration and allow of the claims are respectfully requested and the application be passed issue in due course.

Applicant has also filed a Notice of Appeal and the appropriate filing fee.

Applicant believes no other fee is due for this Amendment. However, if a fee is due, please charge our Deposit Account No. 08-0219, under Order No.: 0114089.120US2 from which the undersigned is authorized to draw.

Respectfully submitted,

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